UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

RODNEY BARBER, Plaintiff,	:	
v.	:	C.A. No. 05-
VERIZON NEW ENGLAND, et al Defendants.	:	

PETITION FOR REMOVAL

Defendants, Verizon New England, Inc., Lorna Deplitch and Joseph Conway, for the purpose only of removing this cause to the United States District Court for the District of Rhode Island, state:

1. **State Court Action.** This is an action filed on or about August 31, 2005 in the Superior Court, County of Providence, State of Rhode Island, being numbered C.A. No. PC05-4261, on the docket of said Court and being a suit by Rodney Barber against Defendants.

2. **Federal Jurisdiction.** As alleged in paragraph 1 of the Complaint, Rodney Barber is a resident of the State of Rhode Island. Verizon New England, Inc. is not incorporated under the laws of Rhode Island, and has its principal place of business in a state or states other than Rhode Island. As alleged in paragraph 3 of the Complaint, defendant Lorna Deplitch is a resident of the Commonwealth of Massachusetts. As alleged in paragraph 4 of the Complaint, defendant Joseph Conway is a resident of the Commonwealth of Massachusetts. Furthermore, the amount in controversy exceeds $75,000, exclusive of interest and costs. Accordingly, this Court has original jurisdiction

over this matter based upon diversity of citizenship pursuant to 28 U.S.C. § 1332(a) and the above-described civil action is one which may be removed pursuant to 28 U.S.C. § 1441.

3. **Timeliness of Removal Petition.** Defendants were served with a copy of the Complaint on or about August 31, 2005. Removal of this action is therefore timely under 28 U.S.C. § 1446(b).

4. **Relief Requested.** Defendants respectfully request that the United States District Court for the District of Rhode Island accept this Petition for Removal, and that it assume jurisdiction of this cause and issue such further orders and processes as may be necessary to bring before it all parties necessary for the trial hereof.

VERIZON NEW ENGLAND, INC.,
LORNA DEPLITCH, and
JOSEPH CONWAY,

By Their Attorney,

John D. Doran (#6415)
EDWARDS & ANGELL, LLP
2800 Financial Plaza
Providence, RI 02903
(401) 274-9200
(401) 276-6611 (fax)

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 13th day of September, 2005, I caused a true copy of the within Petition for Removal to be served by first class mail, postage prepaid, to the following counsel of record:

Bruce P. Gladstein, Esq.
750 East Avenue
Pawtucket, RI 02860

PRV_754151_1/ABATASTINI

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

RODNEY BARBER :
:
v. :
:
VERIZON NEW ENGLAND, INC.; LORNA :
DEPLITCH Alias (Individually and in her :
capacity as a Director of VERIZON NEW :
ENGLAND, INC.) and Joseph Conway, Alias :
(Individually and in his capacity as a Supervisor:
of VERIZON NEW ENGLAND, INC.) :

C.A. NO.: 05-

VERIFIED COMPLAINT

1. Plaintiff, RODNEY BARBER ("Barber"), is a resident of the City of Warwick, County of Kent, State of Rhode Island.

2. Defendant, VERIZON NEW ENGLAND, INC. ("Verizon") is a corporation headquartered in the State of New York and is authorized to do business in the State of Rhode Island.

3. Defendant LORNA DEPLITCH, Alias (Deplitch) is a Director of Network Operations and is employed by Verizon and upon belief is a resident of the State of Massachusetts.

4. Defendant JOSEPH CONWAY III, Alias (Conway) is a Manager of Network Operations employed by Verizon and upon belief is a resident of the State of Massachusetts.

5. Barber worked out of the Verizon office located in the City of, Providence County of, Providence State of Rhode Island.

6. On or about January 1, 1985, Barber was hired by Verizon

7. Barber was employed at Verizon's Rhode Island Equipment Installation Center, located at 234 Washington Street, Providence, RI.

8. Barber was employed as Central Office equipment Installer

9. On or about January 1, 1997 Barber was diagnosed with Hepatitis C.

10. On or about October 27, 2003, Barber filed for a leave of absence under the guidelines of Metropolitan Insurance and Verizon, which was granted until, January 16, 2004.

11. On or about January 1, 2004 through January 5, 2004, and while still approved for leave through Verizon, Barber traveled to Las Vegas, Nevada.

12. On or about January 15, 2004 Conway had a conversation with Depiltch, During said conversation Conway told Deplitch about Barber traveling to Las Vegas, and he had been administered the code of business conduct for 2004.

13. On or about January 16, 2004 Barber returned to work at Verizon.

14. On or about Januarry16, 2004, Conway held a meeting with Barber to discuss Barber's attendance.

15. On or about January 16, 2004 Conway called Deplitch to inform her of his conversation with Barber.

16. On or about January 29, 2004 Barber received a letter from Deplitch stating he was terminated from Verizon for traveling to Las Vegas, while on leave.

17. Barber was not given a warning, suspension, or any other action, but was instead terminated.

18. Barber is disabled and part of a protected class.

19. Barber has complied with administrative requirements under the Rhode Island Fair Employment Practices Act, was issued a Notice of Right to Sue dated June 29, 2005 and has timely commenced suit thereon.

20. The monetary amount claimed for damages are sufficient to establish jurisdiction with this Honorable Court.

COUNT I (RHODE ISLAND CIVIL RIGHTS ACT)

21. Paragraphs 1 through 17 are hereby incorporated by reference as if fully set forth herein.

22. Upon information and belief, Verizon, are subject to the requirements contained within the Rhode Island Civil Rights Act, R.I.G.L. 42-112-1, *et. seq.*

23. The actions of Verizon, as aforesaid have denied Barber the same rights to make and enforce contracts on the basis of his disability within the meaning of and in violation of the Rhode Island Civil Rights Act, R.I.G.L. 42-112-1, *et. seq.*

24. That Barber is entitled to punitive damages and reasonable attorney's fees as per the statute.

COUNT II
(RHODE ISLAND FAIR EMPLOYMENT ACT)

25. Paragraphs 18 through 21 are hereby incorporated by reference as if fully set forth herein.

26. Upon information and belief, Verizon, are subject to the requirements contained within Rhode Island Fair Act, R.I.G.L. 28-5-7, *et. seq.*

27. The actions of Verizon, as aforesaid have denied Barber the same rights to make and enforce contracts on the basis of his disability within the meaning of and in violation of Rhode Island Act, R.I.G.L. ,28-5-7, *et. seq.*

28. That Barber is entitled to punitive damages and reasonable attorney's fees.

COUNT III
(VICARIOUS LIABILITY/ RESPONDENT SUPERIOR)

29. Paragraphs 22 through 25 are hereby incorporated by reference as if fully set forth herein.

30. During the aforementioned dates, Deplitch was employed by Verizon.

31. During the aforementioned date Conway was employer by Verizon.

32. Deplitch and Conway were acting within their scope of employment of Verizon, and therefore, Verizon is responsible for their actions on the principle of vicarious liability/respondent superior.

WHEREFORE, Plaintiff respectfully prays that this Honorable Court:

a. Declare that the Defendants unlawfully discriminated against Plaintiff on the basis of his disability in violation of R.I.G.L. 28-5-7, *et. seq.* and R.I.G.L. 42-112-1, *et. seq.*,

b. Rule for Plaintiff and against Defendants as to all other counts set forth in this complaint;

c. Award Plaintiff compensatory damages as allowed by law.

d. Award Plaintiff punitive damages as allowed by law.

e. Award Plaintiff reasonable attorneys' fees as allowed by law and statute.

f. Award Plaintiff costs of suit as allowed by law and statute.

g. Award such other and further relief as this Honorable Court deems necessary and proper.

PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY

RODNEY BARBER,
by his Attorney

BRUCE P. GLADSTEIN, ESQ. (#5272)
750 EAST AVENUE
PAWTUCKET, RI 02860
(401) 722-9900

VERIFICATION

I, RODNEY BARBER, under pains and penalties of perjury declare and verify that the facts set forth in the foregoing verified complaint are true and accurate based upon my own observations, understandings and personal beliefs.

RODNEY BARBER

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

Subscribed and sworn to me this 15th day of August, 2005.

NOTARY PUBLIC
My Commission Expires: 12-24-07